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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES

Forty-eighth session

Held at the Palais des Nations, Geneva,
on Wednesday, 14 August 1996, at 10 a.m.

Chairman: Mr. EIDE

later: Mr. LINDGREN ALVES

later: Mr. EIDE

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The meeting was called to order at 10.10 a.m.

ELIMINATION OF RACIAL DISCRIMINATION

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (agenda item 5) (continued) (E/CN.4/Sub.2/1996/5, 8, 71 and Add.1, and 72 and Add.1)

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FREEDOM OF MOVEMENT:

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

(b) POPULATION DISPLACEMENTS

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COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO RACISM, XENOPHOBIA, MINORITIES AND MIGRANT WORKERS (agenda item 20) (continued) (E/CN.4/Sub.2/1996/30)

1. Mr. BAUMANIS (Observer for Latvia), speaking on agenda item 17, said that the proportion of non-Latvians in Latvia had risen from 25 per cent in 1939 to 45 per cent in 1996 due to the USSR's Russification policy. Latvia had acceded to all the major human rights instruments and was striving to integrate the populations transferred to its territory during the Soviet occupation, protecting their rights under the Act on Unrestricted Development and the Right to Cultural Autonomy of Nationalities and Ethnic Groups in Latvia.

2. Two bodies had recently been created to protect and promote the rights of all residents in Latvia: the National Human Rights Office and the Consultative Council on Nationalities. A Department of Nationalities had been operating within the Ministry of Justice since 1992 with a view to promoting dialogue with the various ethnic groups. More than 20 such groups had formed their own national cultural societies or associations and they received financial and other support from the State.

3. With a view to facilitating social integration of populations of foreign origin, the Government, in cooperation with UNDP, had drafted a National Programme for Latvian Language Training according to which 50 per cent of the subjects in minority schools would be taught through the medium of Latvian within the next 10 years, thus ensuring that school-leavers would be able to continue their education in Latvia.

4. The Languages Act provided for the right of members of ethnic minorities to be educated in their native tongue. There were currently eight State-funded schools where lessons were conducted in Polish, Hebrew, Russian, Romanian, Ukrainian, Estonian, Lithuanian and Belorusian respectively. There were also 72 classes where the medium of instruction was Russian. Such measures testified to the willingness of the Latvian Government to protect the rights of all residents, as well as the autonomy of minorities and ethnic groups. Latvia pledged its full cooperation with the Sub-Commission's activities in support of minorities.

5. Mr. BEREZNY (Observer for the Russian Federation), speaking on agenda items 17 and 20, said that discrimination on the grounds of nationality, religion, culture or language, which was practised mainly against minorities, nowadays assumed more covert and subtle forms. The creation of a Working

Group to promote the rights of persons belonging to minorities represented the first real step towards initiating a dialogue between States and the representatives of minorities. The Working Group should establish close cooperation with treaty bodies and regularly exchange information with the High Commissioner for National Minorities of the OSCE.

6. Referring to the working paper presented by Mr. Eide (E/CN.4/Sub.2/1996/30), the Russian Federation drew attention to the situation of stateless persons in countries which had been formed as a result of the geopolitical upheavals of the previous decade. It was particularly concerned about the situation of the Russian Diaspora in newly independent States such as Estonia and Latvia. The Citizenship Act adopted in Estonia in January 1995 had made some 200,000 persons of Russian origin stateless, the first instance in Europe of a third of a country's residents finding themselves deprived of citizenship. The Russian Federation categorically rejected the theory that the Estonian policy on citizenship was aimed at redressing the consequences of "occupation" and "colonization". Rather, Estonia was seeking, in the most inhumane fashion imaginable, to eliminate the consequences of the natural movements of labour in the former USSR. The decision to postpone until 30 November the expiry date of Soviet passports which had been taken as a result of international pressure, was a mere palliative. Estonia was taking no steps to resolve the problem of the Russian-speaking minority in a durable and constructive fashion.

7. In Latvia, nearly 900,000 Russian speakers were stateless - 34 per cent of the total population. The Government had once again bowed to international pressure and relaxed its legislation to some degree, without however resolving the problem. Latvia could not claim to be progressing towards a more integrated society until it had proved its willingness to grant citizenship to all non-Latvians, without placing insurmountable obstacles in the way of their naturalization and without pressing them to renounce their own national identity.

8. Extreme nationalism, xenophobia and discrimination were serious obstacles to strengthening the protection of human rights. He suggested that the interrelationship between those various problems be the subject of one of the Sub-Commission's forthcoming studies. He deemed it inadmissible that NGOs, such as Pax Christi International, should use the Sub-Commission as a forum for promulgating ideas in justification of separatism and terrorism, so completely contrary to the principle of territorial integrity of sovereign States.

9. Mrs. JANJUA (Observer for Pakistan), speaking on agenda item 17, said that the Constitution of Pakistan protected the rights and interests of minorities and endeavoured to ensure that they did not fall prey to any discrimination, religious or other. A National Commission for Minorities had been set up with that aim.

10. Being determined to promote religious tolerance and harmony, the Government was working hard to control the activities of armed groups which were directed against all those who did not share their extremist religious beliefs. Pakistan denounced terrorism in all its manifestations, but had only recently been the target of foreign-sponsored terrorist acts. The perpetrators of the attacks on the airport and a hospital in Lahore had publicly revealed the identity of their foreign sponsor.

11. She recalled that many Western countries possessed legislation similar to Pakistan's Blasphemy Act. The Act had, however, undergone several amendments and various administrative measures had been introduced to ensure it was not abused.

12. Responding to allegations by by Indian-sponsored non-governmental organizations (NGOs), her delegation wished to mention the hundreds of

thousands of innocent Muslims killed by Hindu fanatics since independence. An extremist Hindu party now constituted the largest political party in India, and one of its promises at the recent elections had been to destroy the mosques. According to the International Herald Tribune of 4 October 1995, Mr. Bal Thackeray, member of the coalition in power in the State of Maharashtra, referring to the rape of Kashmiri women, had declared that the Indian forces had been right to rape them. What, also, was one to think of a society where a five-year-old's eyes were gorged out when she dared to drink water from a container belonging to a higher-caste teacher?

13. Mrs. PALALA (Observer for the Philippines), speaking on agenda items 18 (a) and 20, said that for many years now, the Philippine Government had been tackling the problems encountered by Filipinos working abroad, for example by introducing measures to reduce the numbers in the "vulnerable" sectors (entertainment, domestic workers, etc.) seeking work overseas, by setting up Filipino welfare centres in host countries and by ensuring that only qualified recruiters were authorized to explore the Filipino job market. The Migrant Workers Act No. 8042 of 1995 imposed stiff penalties on those involved in illegal recruitment.

14. In view of the xenophobia affecting migrant workers, her delegation enjoined those States which had not already done so to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the relevant ILO conventions. A United Nations Expert Group Meeting had been held in Manila in May 1996 on the issue of violence against female migrant workers.

15. With a view to improving the living conditions of Filipino migrant workers, the Philippines had also signed agreements with host countries on working conditions, the granting of visas and double taxation. The Philippine

Government hoped to sign other such agreements with countries which were host to large numbers of Filipino workers. In conclusion, she commended the Sub-Commission on its work in promoting human rights.

16. Mrs. DAES, speaking on item 17, said that at a time when intolerance and discrimination were on the upsurge, in Europe too, the millions of people still suffering from such evils would only welcome the adoption of the Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities by the United Nations General Assembly. It was now a question of translating it into action.

17. The Declaration further enhanced article 27 of the International Covenant on Civil and Political Rights in that it obliged States not only to respect the cultural, religious and linguistic identity of minorities, but also to actively promote the strengthening of that identity by affording official support at a national level to the development of minority institutions. The nature and extent of the support had been left vague, but it was to be hoped that it would be increased with time. Moreover, the Declaration progressed a stage further than the two Covenants with regard to international cooperation, especially in the form of financial aid and technical assistance, in that it expressly stated that "the specialized agencies and other organizations of the United Nations system" must contribute to the full realization of the rights and principles set forth in the Declaration within their respective fields of competence, and that States "should" ensure that international cooperation projects were compatible with the interests and rights of persons belonging to minorities. As she saw it, those rights must be taken into consideration in all fields of international cooperation.

18. The Declaration approached the realization of rights in a progessive manner, emphasizing development and the responsibility on the part of the international community for ensuring that development strengthened enjoyment of the basic rights of minorities. It represented the first application of the Declaration on the Right to Development to a specific field of action. Even in relatively wealthy countries, minorities would not achieve genuine equality unless they were made the first to benefit from development. Unfortunately, that goal had not been actively pursued due to a decline in the resources devoted to development in the United Nations system, a lack of experience in the field of minority rights in United Nations operational programmes, an insufficiency of human resources available to the most competent United Nations bodies, and a lack of institutional coordination with the Commission on Human Rights. Above all, however, there appeared to be a lack of genuine initiatives to approach the field of development in the light of the Declaration. In her view, the Declaration envisaged a contribution on the part of the entire United Nations system to the comprehensive development of minorities, not merely in the form of legal advice to Governments. She hoped that the Working Group would systematically study initiatives in the field of development which involved minorities.

19. It was true that some States still felt threatened by minorities and continued to resist effective international cooperation, particularly in the field of development. A system for protecting European minorities groups had, however, already existed under the League of Nations. Contrary to the theories of some lawyers, that system had not been given a proper chance to succeed as a result of the appalling depression and the social revolutions which had shaken Europe - revolutions in which the minorities had played no part. The adoption of the Declaration had reflected the important changes which had occurred since the end of the cold war, especially regarding the sharing and decentralization of power within States. Furthermore, the Declaration issued from a new spirit of social realism in the field of human rights which was far removed from the ossified ideological theories of the past. The Secretary-General had personally endorsed paragraph 18 of the Agenda for Peace. Effective implementation of the Declaration would require

closer cooperation between all competent United Nations organs on all matters affecting minority rights, on the collection and distribution of data on the treatment of minorities in different parts of the world for the purposes of the relevant analyses and studies conducted within the system, and the adoption of an adequate system for disseminating information from specialized agencies, governments and NGOs to the competent Secretariat offices entrusted with implementing early warning procedures and preventive diplomatic efforts. The Department of Public Information should also contribute by distributing educational materials to promote, protect and implement the Declaration. Since the minorities issue often proved crucial to peacemaking, peacekeeping and peace-building, all involved should be made familiar with the Declaration's provisions.

20. The effective implementation of the Declaration would nevertheless depend above all on the work to be carried out by the Working Group on Minorities. She congratulated its members, expressing special thanks to Mr. Ali Khan for his working paper on domicile and residence concerning minorities and migrant groups (E/CN.4/Sub.2/AC.5/1996/WP.4/Add.1) and to Mr. Chernichenko for his working paper on the definition of minorities (E/CN.4/Sub.2/AC.5/1996/WP.1). She suggested that the latter should be asked to prepare a second working paper on the concept of "minority", to take into account the discussion held in the Sub-Commission and any relevant documents and studies.

21. She supported the conclusions and recommendations of the Working Group's reports on its two sessions (E/CN.4/Sub.2/1996/2 and 28). Like all the Sub-Commission's other Working Groups, it should continue to submit an annual report to the Sub-Commission. The latter should therefore recommend that the Economic and Social Council should extend the Group's mandate until the end of 1999. She considered that missions or visits to countries by the Chairperson or members of the Working Group should only be undertaken at the invitation or request of the Government of the State concerned. Constructive dialogue between Governments and minorities undoubtedly contributed to the peaceful resolution of conflicts between all parties concerned.

22. Proceeding to the issue raised by agenda item 18 (b), Mrs. Daes expressed her regret over the Special Rapporteur's failure to submit his final report at the forty-ninth session. In conclusion, she endorsed the proposal made by the representative of the Office of the United Nations High Commissioner for Refugees to organize a seminar to examine all aspects of the human rights issue in the context of population shifts.

23. The CHAIRMAN invited Government observers to exercise their right of reply if they so wished.

24. Mr. GWAM (Observer for Nigeria) said that the allegations of human rights violations made against Nigeria by the International Association of Educators for World Peace amounted to pure mischief. That NGO had alleged that the proceeds from the exploitation of oil on Ogoni territory since 1958 had been used to develop other parts of Nigeria, to the detriment of the Ogoni people. That was false. The Nigerian Government had, on the contrary, introduced various measures to ensure the enjoyment of economic, social and cultural rights, as well as the civil and political rights of the populations of oil-producing zones such as Ogoniland. To that end, the Oil Mineral Producing Area Development Commission (OMPADEC) devoted 3 per cent of the country's oil revenue to researching solutions to the ecological problems in areas such as the Ogoni region. Oil was now produced in 10 states within the Federation, including Rivers State of which the Ogoni area was a part. The NGO in question had claimed that the proceeds from crude oil production in that region amounted to $30 billion, a surprising figure considering that those proceeds represented less than 3 per cent of the nation's total oil revenue. Furthermore, the federal government had invested in numerous

projects in Rivers State, including two universities and numerous higher educational establishments.

25. The second allegation had been that the Nigerian Government had introduced military decrees to restrict the fundamental rights of the Ogoni people and that a special tribunal had been set up to try Ogoni activists. The nine Ogoni activists, including Chief Ken Sara-Wima, had been judged under Civil Disturbances Decree No. 2 of 1987 which had been introduced three years prior to the formation of MOSOP. That was the seventh judgement under the decree.

26. Another NGO had accused the Nigerian Government of having violated the rights of Nigerian trade unionists, claiming that the unionist Mr. Kokori had been detained for trade union activities, whereas, in actual fact, he was being tried for an unrelated criminal offence. The NGO concerned could refer for further details to the Nigerian delegation's statement to the eighty-second session of the International Labour Conference held in Geneva in June 1996.

27. He appealed to NGOs to support and encourage his Government's efforts to ensure the promotion, protection and enjoyment of the human rights of all Nigerians, instead of making groundless criticisms based on mischief.

28. Mr. GJONEJ (Observer for Albania) referred to a statement by the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities. Unlike the majority of NGOs, it had sought to communicate erroneous information to the Sub-Commission instead of contributing constructively to its work. The allegations it had made involved a gross distortion of reality, and the Albanian delegation was willing to provide the representative of that NGO with precise information on the situation of the Greek minority in Albania. The Albanian Government had been involved in negotiations with the Greek Government on that issue, and

they boded well for the future. Finally, regretting the aggressive tone adopted by the NGO towards his delegation, he called upon all NGOs to respect certain ethical standards when addressing the Sub-Commission.

29. Mrs. TALVET (Observer for Estonia) said she wished to correct some information presented by a previous speaker concerning citizenship issues in Estonia.

30. Firstly, she pointed out that Estonia was not a newly independent State since the Republic of Estonia had dated from 1918. Estonia had restored its independence on 20 August 1991, re-enacting its laws, including those concerning citizenship. A democratic State, it had accorded all inhabitants the possibility of exercising their right to determine their own citizenship. Moreover, the new law on citizenship, which had been adopted in 1991 and which took account of the provisions of international instruments to which Estonia was a party, ensured that any individual who had been legally resident in Estonia for five years and had some knowledge of Estonian and the Estonian Constitution could apply for Estonian citizenship. That provision applied to all those who had lived in Estonia before it regained its independence.

31. The internal passport of the Former Soviet Union had never been recognized as a document for international travel. Estonia had promoted the free movement of foreigners by issuing them with temporary travel documents and foreigners' passports. Citizens of the Russian Federation resident in Estonia who had not yet been issued with travel documents by the Russian authorities had also benefited.

32. The CHAIRPERSON declared consideration of agenda items 5, 17, 18, and 20 closed.

CONTEMPORARY FORMS OF SLAVERY (agenda item 15) (E/CN.4/Sub.2/1996/24, 25 and Add.1, 26; E/CN.4/Sub.2/1996/NGO/19; E/CN.4/1996/100)

33. Mrs. WARZAZI (Chairman-Rapporteur of the Working Group on Contemporary Forms of Slavery) introduced the report of the Working Group on its twenty-first session from 17 to 26 June 1996 (E/CN.4/Sub.2/1996/24), in which relevant NGOs, representatives of United Nations specialized agencies and bodies and a small number of observers from Member States had participated.

34. Generally speaking, child prostitution was becoming increasingly widespread and new countries were opening up to sexual tourism. Only a few Western Governments had introduced legislation to combat that practice. The Working Group condemned child pornography and urged all States to introduce the necessary legislative measures to protect minors. Concerned that there had been only a slight increase in the number of States ratifying the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, it had discussed measures which could be taken and hoped that the dialogue which had already been initiated during previous sessions with the countries which had not yet ratified the Convention would continue.

35. The Working Group reiterated its thanks to the Anti-Slavery Society for providing it with a note on various traditional or more modern slavery-like practices which called for urgent governmental action. Several suggestions had been made to facilitate the application of conventions on slavery, including the drafting of a questionnaire to assist countries in reporting on their implementation of the conventions, and the creation of a follow-up procedure for the 1949 Convention.

36. The financial difficulties of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery had been repeatedly raised and the observer for the Board of Trustees had asked the members of the Working Group to devise a solution with a view to saving the Fund from indifference and stagnation. At

the proposal of an expert, the Group had thus decided to include a paragraph relating to the Fund in the draft resolution suggesting that the Secretary-General might entrust the Board's terms of reference to the Working Group with a view to greater efficiency and a reduction in operating expenses. It was for the members of the Sub-Commission to assess the desirability of that suggestion.

37. She then summarized the discussion on the suppression of the traffic in persons and of the exploitation of the prostitution of others (paras. 35-43 of the report), from which it had emerged that prostitution should no longer be considered a necessary evil and that it was a social phenomenon linked to other problems such as drugs, alcoholism, delinquency, pornography, AIDS, and poverty in general. The International Abolitionist Federation had quoted the recommendations of the regional seminar against sexual exploitation of children and adolescents in the Americas held at Brasilia in April 1996 at which participants had suggested the creation of a system within the United Nations to follow up plans to put an end to the sexual exploitation of children and adolescents in that region.

38. Regarding illegal adoptions (paras. 44-49 of the report), the International Federation of University Women had denounced illegal adoption of children by paedophiles under cover of humanitarian associations, regretting that article 21, paragraphs (b) and (d), of the Convention on the Rights of the Child had not been revised to prevent adoption from being used for gain. The Federation had expressed the hope that the Working Group would be more closely involved in the work of the Working Group of the Commission on Human Rights responsible for drafting an optional protocol to the Convention on the Rights of the Child concerning the sale of children, child prostitution and child pornography. The Working Group had opted to reword the agenda item and refer henceforth to illegal or pseudo-legal adoptions.

39. Regarding traffic in human organs and tissues (paras. 50 and 51 of the report), the particular case of women forced to have abortions so that the tissues of the aborted infants could be used for transplants had been raised. The Working Group was awaiting the report requested of the Secretary-General by the Commission on Human Rights in its resolution 1996/61 on the reliability of allegations regarding the removal of organs and tissues of children and adults for commercial purposes.

40. Government observers had enumerated the legislative, administrative, information and other measures adopted in their countries to control bonded labour and child labour (paras. 52-65 of the report). However, the observer for the Board of Trustees of the Voluntary Trust Fund had indicated that their implementation was fraught with difficulties. According to one expert, the employment of infants should be prohibited and strict conditions laid down for children compelled to work. It was again noted that most of those problems stemmed from poverty. The Working Group's attention had been drawn to a report on child labour submitted by the ILO to the Ministerial Conference on the subject.

41. Forced labour (paras. 66-70 of the report) and migrant worker issues (paras. 71-76) had also been examined. The extreme vulnerability of migrant workers in certain Gulf and European countries had been emphasized and it had been noted that employers were confiscating employees' passports, especially those of women workers, forcing them into a situation of near slavery.

42. With regard to the activities of the Special Rapporteur on the sale of children, child prostitution and child pornography (paras. 77-85), who had unfortunately not participated in the Group's work, it had been noted that despite all the measures taken by Governments, children were still suffering abuse and sexual exploitation, linked particularly to sexual tourism. Attention had been drawn to legislation adopted by some countries under which

sexual tourists could be prosecuted for acts committed abroad, as well as to the use of the Internet for sexual tourism.

43. The activities of the Special Rapporteur on violence against women (paras. 86-95) had provoked a debate on the issue of "comfort women". Victims had testified, applauded the report of the Special Rapporteur and requested sincere apologies and fair compensation from the Japanese Government. They had refused compensation offered by the Asian Women's Fund financed by private capital. The observer for Japan had recalled that his Government had repeatedly expressed remorse and apologized to all the victims, pointing out that complaints concerning the war had been settled in accordance with international agreements. He asserted that the Asian Women's Fund had been created as a means for all Japanese to express their remorse to all the victims. The observer for the Republic of Korea had commended the work of the Special Rapporteur on violence against women and welcomed the appointment of Ms. Chavez as Special Rapporteur for conducting an in-depth study on systematic rape, sexual slavery and slavery-like practices during wartime.

44. The debate on other matters, including early marriages and detained juveniles (paras. 96-109), had dealt, inter alia, with the reports on tens of thousands of children being seized from their families by the army of the Islamic National Front and taken to northern Sudan as slaves. Despite continuing to deny the existence of slavery in the Sudan, the Sudanese Government had set up a special committee to investigate the allegations. The organization SOS-Slavery had also pointed out that the Government of Mauritania had still not adopted any text to give effect to the 1981 ordinance abolishing slavery, and the observer for the International Abolitionist Federation in Brazil had made a very informative statement on slavery in Brazil. Two NGOs had also raised the problem of sexual abuse of children in general, such as within Asian communities living in the United Kingdom. The Working Group had been called upon to think about harmonizing definitions of paedophilia.

45. The Working Group's meetings had been conducted in a courteous atmosphere and a spirit of openness permitting NGOs and Governments to voice their opinions. It was to be regretted, however, that so few NGOs and Government observers had been able to follow the Group's work because of other important international meetings being held concurrently and that some specialized agencies, despite being directly concerned, had not felt bound to participate. It was thus to be hoped that the dates of the Working Group's twenty-second session would not conflict with the dates envisaged for other conferences. She thanked the Secretariat for its assistance and cooperation during the Group's session.

46. In conclusion, speaking in her personal capacity, she suggested that NGOs should conduct special investigations to determine whether allegations made by the researcher Dominique Torres in "Slaves" (Esclaves, 1995) concerning the existence of multinational slavery organizations which kept their victims in appalling conditions in European capitals, were founded.

47. Mrs. McDOUGALL, introducing the preliminary report on an in-depth study of systematic rape, sexual slavery, and slavery-like practices during periods of armed conflict (E/CN.4/Sub.2/1996/26) on behalf of Ms. Chavez, Special Rapporteur on the issue, said that the study provided tentative definitions of the terms "rape", "systematic rape" and "sexual slavery". Systematic rape was used as an instrument of torture and of war, in violation both of humanitarian and human rights law. Moreover, forced pregnancy had been used as a means of ethnic cleansing. There were examples of such practices throughout history, such as during the two World Wars when German soldiers had used rape as a weapon to terrorize the occupied population, and the Japanese military had forcibly conscripted 200,000 women into "comfort stations". At the eighty-third session of the International Labour Conference, the Committee of Experts on the Application of Conventions and Recommendations had estimated

that gross human rights violations, including sexual abuse of women in the "comfort stations", had fallen within the prohibitions of the Forced Labour Convention and that such activities constituted a manifestation of slavery which violated that Convention. More recently, systematic rape and sexual slavery had also been practised in war zones, such as the former Yugoslavia, Kuwait, Rwanda, Haiti, Pakistan, Peru and Liberia.

48. The study discussed international norms prohibiting systematic rape and sexual slavery during wartime. It needed to be emphasized that rape as an instrument of war was increasingly being considered a war crime, if not a crime against humanity. The study also examined the issue of State responsibility under international human rights law and international humanitarian law, as well as the individual responsibility of the perpetrators of such acts. There were several international forums competent to examine charges of sexual violence and exploitation, including systematic rape and sexual slavery, or to prosecute charges, including the International Court of Justice, the international criminal tribunals for the former Yugoslavia and Rwanda and specialized war crimes tribunals such as those at Nürnberg and Tokyo. Offenders could also be tried by national, military or civil tribunals. The report recognized that reparations, including restitution, compensation and rehabilitation, must be accorded to victims of systematic rape and sexual slavery. Compensation should be provided for any economically assessable injury.

49. There was a substantive body of international norms relating to systematic rape, sexual slavery and slavery-like practices during wartime, including internal armed conflict; however, it must be ascertained to what extent those norms could be broadly disseminated, used to prevent new violations, applied to past violations and invoked by victims to obtain remedies. The preliminary information at the Special Rapporteur's disposal concerning the high incidence of such crimes pointed to the need to continue to address such an important issue.

50. Mr. HATANO said he found Ms. Chavez's preliminary report extremely interesting, but hoped that she would clarify two important points in her final report.

51. In paragraph 29 of the report, the Special Rapporteur cited ILO Convention No. 29 concerning Forced Labour as one of the relevant international instruments. However, article 2 of that Convention did not include "any work or service exacted ... in the event of war" under forced or compulsory labour. He therefore wondered to what extent that Convention could be considered to be a relevant international instrument in the case of systematic rape during wartime and how the Committee of Experts justified applying that Convention to the case in point. Furthermore, it would be necessary to ascertain whether a State had in the past ever assumed responsibility for cases of systematic rape, by virtue either of a treaty or of customary international law, and had compensated the victims.

52. Mr. Hatano raised those two questions from the point of view of positive law and was not, of course, opposed to the elaboration of new rules of international law concerning the issue. Confirming the existence or non-existence of applicable standards of international law at a given time did, however, remain a prerequisite for any consideration of the desirable development of international law in the field.

53. Mr. Lindgren Alves took the Chair.

54. Mr. YIMER said he found the report on systematic rape, sexual slavery and slavery-like practices during periods of armed conflict to be of considerable importance in that it provided an in-depth analysis of applicable international law and State responsibility in that area. He endorsed the conclusions and recommendations of the Special Rapporteur in paragraph 86 ff

of her report, agreeing that it was necessary to examine to what extent the relevant international standards could be disseminated broadly, used to prevent further violations, applied to past misconduct and invoked to provide remedies for victims. He hoped that a study of such issues would form a central part of the Special Rapporteur's final report.

55. Mrs. PARES (Pax Romana) drew attention to the fact that, at the beginning of 1996, a child prostitution network had been dismantled in southern Spain and that socially respected individuals had been implicated in the scandal. The private clubs involved had been closed down, but the problem persisted and the authorities, some members of which had been compromised by the affair and were currently free on bail, did not seem inclined to examine the matter seriously.

56. Slaves and sexual workers were also to be found in India, where girls were frequently sold by auction once they reached puberty. In Australia, on the other hand, the authorities had implemented measures to criminalize sexual tourism carried out by Australian citizens abroad.

57. Pax Romana was also very concerned by the problem of sexual child abuse both within and outside the family. According to various studies conducted in developed countries in Europe and North America, an estimated 15 to 20 per cent of children were victims of sexual abuse. The gravity of the problem seemed to require urgent action. It was not merely a local or family problem, but a question of flagrant abuse of human rights. All manifestations of sexual violence against children were repugnant and had long-term repercussions on victims, including depression, anxiety, isolation, delinquency and prostitution.

58. Pax Romana thus requested the members of the Sub-Commission to take steps to ensure that child abuse, which often resulted in contemporary forms of slavery, was included in the programme of action for the prevention of traffick in persons and the exploitation of the prostitution of others, adopted by the Commission in its resolution 1996/61.

59. Mr. EIBNER (Christian Solidarity International) said that, in the Sudan, a country which had ratified the Slavery Convention almost 40 years previously, slavery was still thriving, actively promoted by the extremist Islamic National Front regime in power. Christian Solidarity International was basing its evidence on the testimony of people directly affected by slavery which it had collected during the four visits it had made to the country since the spring of 1995. Slavery was just one facet of the Government's policy of genocide against those resisting its efforts to transform the country into a totalitarian State, a policy which had already caused 1.5 million deaths and the displacement of over 5 million black Africans. The victims were mostly members of the Dinka and Nuba tribes.

60. Slave raids were conducted by militias belonging to the Popular Defence Force. Members of Christian Solidarity International had borne witness to the destruction of villages, the slaughtering of men and the looting of livestock and crops following raids. Boys were taken to tend cattle, whereas women and girls were forced to perform domestic chores and provide sexual services to their masters. Unpaid, they were often mistreated and forced to change their religious practices and assume Arab names. Christian Solidarity International cited in particular the traumatic experience of a young 13-year-old boy who had been captured during a raid on the Dinka village of Korwai in 1992. The testimony collected by Christian Solidarity International had been corroborated by other investigators, including the Special Rapporteur on the situation of human rights in the Sudan.

61. Christian Solidarity International called upon the Sub-Commission to consider the recommendations set forth in its reports, and made a new appeal to the High Commissioner for Human Rights, requesting him to act energeticaly

and intervene personally with the Government of the Sudan to secure the release and return home of 8-year-old Abuk Kwany, enslaved to Ahmed Ahmed at Naykata, and of all other slaves known to Christian Solidarity International

and other human rights organizations. His organization also stressed the necessity of promoting unfettered access by human rights monitors to all parts of the Sudan under the direction of the Special Rapporteur.

62. Mr. WHITEHOUSE (International Confederation of Free Trade Unions - ICFTU) said that the recent reports of the ILO Committee of Experts on the application of ILO Conventions Nos. 29 and 105 raised cases of forced labour in Burma, Peru, Brazil, the Sudan, Mauritania, Thailand, Pakistan, India, Sri Lanka and Bangladesh. Forced labour existed in numerous other countries, but countries which had not ratified those Conventions did not feature in the ILO reports. ICFTU, which had frequent recourse to the ILO procedures to initiate complaints against countries using forced labour, was currently engaged in actions against Burma and Pakistan.

63. ICFTU drew the attention of the Sub-Commission to the serious violations of human rights suffered by Palamoori migrant labourers from a particularly poor area of India who were forced to seek employment elsewhere. Construction workers at the Narmada canal in Gujarat were detained for 12 hours a day in appalling, unsanitary working conditions. Elsewhere, they were subjected to harassment and women were forced to wet-nurse their employers' children. The union defending Palamoori rights had exhausted all national channels of complaint and was relying on assistance to urge the Indian Government to ensure effective implementation of the 1976 Bonded Labour System (Abolition) Act. The trade union movement was willing to cooperate with the national authorities and the United Nations with a view to establishing monitoring systems to eradicate such inhuman practices.

64. Mr. TANAKA (International Movement against All Forms of Discrimination and Racism) said that his organization was very concerned about the increased trafficking in persons and exploitation of the prostitution of others, including the trade in women and children. Its survey and symposia on problems encountered by victims of such practices in Asia had revealed that, all too often, those persons were victims not only of traffickers, but also of the alien societies in which they found themselves and against which they had no protection from legislation. Various recommendations based on the Beijing Programme of Action had been formulated following the symposia. It had been recommended, for example, that a national reporting system on trafficking in persons and exploitation of the prostitution of others should be established to help strengthen the 1949 Convention. The reports would contain legal information and statistics and deal with the social, economic, legal and political causes of the practices. They would also document concrete measures taken by the authorities to decriminalize the victims and fight against the causes, as well as educational and training efforts. Educational programmes and media campaigns should be organized with a view to preventing the "commodification" of women for sexual purposes. All officials, including the police, immigration officers and prison officials, should receive appropriate training on victims' rights and on the need to refrain from any act of violence against them. National reports should also take such measures into account.

65. The International Movement against All Forms of Discrimination and Racism hoped that the Sub-Commission would make a priority of developing an integrated approach with a view to suppressing trafficking in persons and exploitation of the prostitution of others. Stressing the seriousness of the slavery issue, he concluded by regretting that there were currently so few participants at sessions of the Working Group on Contemporary Forms of Slavery.

66. Mrs. NEURY (Centre Europe-Tiers Monde - CETIM) gave an illustration of one of the modern manifestations of slavery which affected migrant workers and which was still tolerated, even in the vicinity of the Palais des Nations. The case was that of Ram Roop, a young Indian man who had been placed at the disposal of Mr. Barwa, Counsellor of the Mission of India to WTO, and who had lived in his household for two and a half years in conditions of slavery until being found in a pitiful state by the Geneva police on 9 April 1996. With a view to defining that modern manifestation of slavery, CETIM had devised seven criteria, all applicable to Ram Roop's case: the degree of constraint in choice of abode, the restrictions on liberty of movement, the employer's discretionary power over his employee's timetable, the lack or inadequacy of remuneration, cultural alienation, mistreatment and violation of the right to adequate food and, finally, lack of legal protection.

67. CETIM, in contact with Syndicat Sans Frontières, which was currently defending the case of 20 persons who had spent many days in Geneva in conditions of slavery in diplomats' homes, called for a revision of the Vienna Convention on Diplomatic Relations, considering the maintenance of diplomats' immunity with regard to the hiring of personnel was a serious obstacle to the efforts of the United Nations to combat modern forms of slavery. CETIM invited the Sub-Commission to familiarize itself with the document it had prepared on the child labour issue (E/CN.4/Sub.2/1996/NGO/19). It was insufferable that millions of children such as Ram should be deprived of education and any kind of play.

68. Mrs. SILWAL (International Progress Organization) said that many children in developing countries were exposed to forced labour and even prostitution. In Pakistan, for example, according to ILO, nearly 6 million children were forced to work in conditions of near slavery in order to pay debts contracted by their parents from feudal landlords. According to Anti-Slavery International, the courts and Government of Pakistan were helpless to control the terrible problem of debt-bondage. Bondage of the mind was yet another form of slavery to which children in schools run by religious fundamentalists were being exposed.

69. Poor children in developing countries, especially in South Asia, were also used for pornographic purposes, and offered for prostitution. That scandalous trade was nothing more than a new form of human colonization, patronized mainly by tourists from affluent countries. Child pornography also thrived, however, in countries where living standards were high.

70. In Pakistan, young Christian and Hindu girls were converted to Islam, and rape and violence were common. In certain other countries in the region, some girls were being forced against their wishes to marry wealthy, but far older men.

71. The sale and prostitution of children did not only have economic causes; they also resulted from a weakening of family ties due to overly abrupt economic and social changes. Such practices must be stopped, and the provisions of the Convention on the Rights of the Child applied so that future generations would not be able to accuse their predecessors of not having lifted a finger to prevent the transformation of childhood into a commercial commodity.

72. Mr. Eide resumed the Chair.

73. Mr. LITTMAN (World Federalist Movement) recalled that Mr. Biro, Special Rapporteur on the human rights situation in the Sudan, had declared, when introducing his third report to the Commission on Human Rights the previous April, that the reported descriptions of slavery-like practices in the Sudan, corroborated by a wide range of independent sources, had proved to be well-founded, despite the repeated denials by the Sudanese Government. After being refused the right of entry to the Sudan in February 1994 and threatened by a Sudanese newspaper, the Special Rapporteur had finally been authorized to visit the country from 1 to 7 August 1996. On the very day of his departure, the government newspaper Al-Sudan Al-Hadith had claimed that he had stated that there was no existence of practices of slavery in the Sudan, a remark which had then been carried by Reuters. Mr. Biro had made a strong rebuttal two days later, saying that for the past three years he had constantly reported on slavery, servitude and forced labour taking place in several parts of the Sudan, perpetrated by members of the Sudanese army and paramilitary groups fighting with the army in southern Sudan, and that he had just recently received further reports on similar practices. Tragically, what was going on in the Sudan was reminiscent of earlier centuries. Slavery was one of the causes of the war, as well as one of its consequences. It was outlawed by the International Bill of Human Rights, to which the Sudan had subscribed, and by Sudanese law itself. The World Federalist Movement called upon the Sub-Commission in its resolution on the Sudan to once again firmly condemn slavery as described by the Working Group on Contemporary Forms of Slavery, which had denounced the practice as a "crime against humanity".

74. Mr. YUSUHIRO SORANO (Liberation) deplored the Japanese Government's rejection of the conclusions of Ms. Chavez's report on systematic rape, sexual slavery and slavery-like practices during periods of armed conflict (E/CN.4/Sub.2/1996/26). Despite the recommendations of the Sub-Commission, it had taken no measures to seek out, prosecute or punish those responsible for the treatment of the "comfort women", which constituted a crime against humanity.

75. Worse still, Mr. Okuno, the former Minister of Justice, had declared that the women had been recruited to engage in "commercial activity". The Japanese Prime Minister had said a month previously that he had nothing to do with Japanese war criminals. The attitude of the Japanese authorities, who were resorting to private funds to evade State responsibility, only harmed the victims.

76. Moreover, the Japanese courts and Government were refusing to compensate Koreans who had undergone forced labour during the War and who, in some cases, had lost one or more limbs.

77. Liberation recommended that the Sub-Commission should urge the Japanese Government not merely to acknowledge war crimes committed by the Japanese State, but also to take action on behalf of the victims in accordance with international law.

The meeting rose at 1.05 p.m.